

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
ANDREW R. VARA
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

	:	Chapter 11
In re	:	
	:	Bankr. Case No. 18-27963 (MBK)
Duro Dyne National Corp., ¹	:	
	:	Jointly Administered
Debtors.	:	
	:	Honorable Michael B. Kaplan
	:	
Andrew R. Vara, United States Trustee for Region 3,	:	
	:	Civil Action No. 3:18-cv-15563-MAS
Appellant,	:	
v.	:	
	:	Honorable Michael A. Shipp
Duro Dyne National Corp., <i>et al.</i> ,	:	
	:	
Appellees.	:	
	:	

**APPELLANT'S STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL AND
DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellant Andrew R. Vara, the Acting United States Trustee for Region 3, by and through his undersigned counsel, hereby submits, pursuant to Rule 8009(a)(1) of the Federal Rules of Bankruptcy Procedure, his statement of issues to be presented on appeal and designation of items to be included in the record on appeal with respect to the Order Appointing

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's tax identification number, are: Duro Dyne National Corp. (4664); Duro Dyne Machinery Corp. (9699); Duro Dyne Corporation (3616); Duro Dyne West Corp. (5943); and Duro Dyne Midwest Corp. (4662).

a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date (Docket No. 191), which was entered in the above-captioned case on October 17, 2018, by the United States Bankruptcy Court for the District of New Jersey:

ISSUES TO BE PRESENTED ON APPEAL

1. Did the bankruptcy court err by appointing Lawrence Fitzpatrick as the future claims representative?
2. Did the bankruptcy court err by imposing limitations on the gathering and presentment of evidence relating to the disinterested person status of Mr. Fitzpatrick?
3. Did the bankruptcy court err in its ruling on evidentiary privileges that interfered with the objecting parties' ability to present a factual record relevant to the determination of Mr. Fitzpatrick's disinterestedness?
4. Did the bankruptcy court err by basing its decision to appoint Mr. Fitzpatrick on findings of fact that were not supported by the record?

ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

Duro Dyne National Corp., Bankr. D.N.J. Case No. 18-27963 (MBK)

Docket No.	Date	Description
		Case Docket for Bankr. D.N.J. Case No. 18-27963 (MBK)
1	9/7/18	Chapter 11 Voluntary Petition of Duro Dyne National Corp. and all supporting documents
3	9/7/18	Declaration of Randall S. Hinden in Support of Chapter 11 Petitions and First Day Pleadings
4	9/7/18	Motion for Joint Administration of 18-27963, 18-27968, 18-27970 & 18-27971
19	9/7/18	Chapter 11 Plan, and all Exhibits
20	9/7/18	Disclosure Statement
41	9/11/18	Order Granting Motion for Joint Administration
44	9/11/18	Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date, and all Exhibits
45	9/12/18	Application to Shorten Time for Hearing on Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date
46	9/12/18	Order Granting Application to Shorten Time for Hearing on Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date
82	9/21/18	Schedules A, B, D, E, F, G, and H of Duro Dyne National Corp. and all supporting documents
83	9/21/18	Statement of Financial Affairs of Duro Dyne National Corp.
84	9/21/18	Schedules A, B, D, E, F, G, and H of Duro Dyne Corporation and all supporting documents
85	9/21/18	Statement of Financial Affairs of Duro Dyne Corporation
86	9/21/18	Schedules A, B, D, E, F, G, and H of Duro Dyne Machinery and all supporting documents
87	9/21/18	Statement of Financial Affairs of Duro Dyne Machinery

88	9/21/18	Schedules A, B, D, E, F, G, and H of Duro Dyne Midwest and all supporting documents
89	9/21/18	Statement of Financial Affairs of Duro Dyne Midwest
90	9/21/18	Schedules A, B, D, E, F, G, and H of Duro Dyne West and all supporting documents
91	9/21/18	Statement of Financial Affairs of Duro Dyne West
94	9/26/18	United States Trustee's Objection to Debtors' Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Claimants, and all Exhibits
103	9/27/18	Federal Insurance Company's (i) Objection to Debtors' Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date and (ii) Alternative Request to Adjourn the Hearing to Permit Federal to Take Discovery Relating to Debtors' Motion, and all Exhibits
108	9/27/18	The North River Insurance Company's Joinder to United States Trustee's Objection and Federal Insurance Company's (i) Objection to Debtors' Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date and (ii) Alternative Request to Adjourn the Hearing to Permit Federal to Take Discovery Relating to Debtors' Motion, and all Exhibits
114	9/28/18	Joinder of Hartford Accident and Indemnity Company in United States Trustee's Objection and Federal Insurance Company's (i) Objection to Debtors' Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date and (ii) Alternative Request to Adjourn the Hearing to Permit Federal to Take Discovery Relating to Debtors' Motion
116	9/28/18	Response of the Debtors to the Objections of the United States Trustee, Federal Insurance Company, North River Insurance Company, and Hartford Accident and Indemnity Company to Debtors' Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Claimants
118	9/28/18	The Official Committee of Asbestos Claimants' Response in Support of Debtors' Motion for an Order Appointing a Legal Representative for Future Personal Injury Claimants Effective as of the Petition Date

120	9/28/18	Joinder of Lawrence Fitzpatrick in Response of the Debtors to the Objections of the United States Trustee, Federal Insurance Company, North River Insurance Company, and Hartford Accident and Indemnity Company to Debtors' Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Claimants
125	9/30/18	Compendium of Unreported Authorities Cited in Response of the Debtors to the Objections of the United States Trustee, Federal Insurance Company, North River Insurance Company, and Hartford Accident and Indemnity Company to Debtors' Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Claimants, and all Attachments
132	10/3/18	Transcript of 10/1/18 Hearing on Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date
138	10/4/18	Joint Objection of Certain Insurers as Creditors and Parties in Interest to Debtors' Disclosure Statement, and Exhibit
140	10/4/18	Objection of the United States Trustee to the Disclosure Statement for the Prenegotiated Plan of Reorganization for Duro Dyne National Corp., <i>et al.</i>
172	10/12/18	Certain Insurers' Supplemental Brief in Support of Objections to Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Bodily Injury Claims, Effective as of the Petition Date
173	10/12/18	Declaration of Stephen M. Forte in Support of Certain Insurers' Supplemental Brief in Support of Objections to Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Bodily Injury Claims, Effective as of the Petition Date, and all Exhibits
174	10/12/18	Supplemental Objection of the United States Trustee to Motion for an Order Appointing Lawrence Fitzpatrick as Representative for Future Asbestos Claimants, and all Exhibits
175	10/12/18	Debtors' Reply in Support of Motion to Appoint the Proposed Future Claimants' Representative
176	10/12/18	Joinder of Lawrence Fitzpatrick in Debtors' Reply in Support of Motion to Appoint the Proposed Future Claimants' Representative
189	10/17/18	Transcript of 10/16/18 Court Decision on Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date

191	10/17/18	Order Appointing a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date
192	10/18/18	Transcript of 10/15/18 Hearing on Debtors' Motion for an Order Appointing a Legal Representative for Future Asbestos Personal Injury Claimants Effective as of the Petition Date
233	10/31/18	Notice of Appeal
--	--	Transcript of 9/11/18 Hearing on First Day Matters (to be ordered)

Duro Dyne Corporation, Bankr. D.N.J. Case No. 18-27968 (MBK)

Docket No.	Date	Description
		Case Docket for Bankr. D.N.J. Case No. 18-27968 (MBK)
1	9/7/18	Chapter 11 Voluntary Petition of Duro Dyne Corporation and all supporting documents

Duro Dyne Machinery Corp., Bankr. D.N.J. Case No. 18-27969 (MBK)

Docket No.	Date	Description
		Case Docket for Bankr. D.N.J. Case No. 18-27969 (MBK)
1	9/7/18	Chapter 11 Voluntary Petition of Duro Dyne Machinery Corp. and all supporting documents

Duro Dyne Midwest Corp., Bankr. D.N.J. Case No. 18-27970 (MBK)

Docket No.	Date	Description
		Case Docket for Bankr. D.N.J. Case No. 18-27970 (MBK)
1	9/7/18	Chapter 11 Voluntary Petition of Duro Dyne Midwest Corp. and all supporting documents

Duro Dyne West Corp., Bankr. D.N.J. Case No. 18-27971 (MBK)

Docket No.	Date	Description
		Case Docket for Bankr. D.N.J. Case No. 18-27971 (MBK)
1	9/7/18	Chapter 11 Voluntary Petition of Duro Dyne West Corp. and all supporting documents

Respectfully submitted,

ANDREW R. VARA
ACTING UNITED STATES TRUSTEE

By: /s/ Mitchell B. Hausman
Mitchell B. Hausman
Trial Attorney

Dated: November 14, 2018